



# City of Grand Island

Tuesday, September 27, 2016

Council Session

## Item E-2

**Public Hearing on Request from Simbert, LLC dba Peacock Lounge, 2430 Broadwell Avenue for a Class “C” Liquor License**

*Council action will take place under Consent Agenda item G-5.*

Staff Contact: RaNae Edwards

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk

**Meeting:** September 27, 2016

**Subject:** Public Hearing on Request from Simbert, LLC dba  
Peacock Lounge, 2430 N. Broadwell Avenue for a Class  
“C” Liquor License

**Presenter(s):** RaNae Edwards, City Clerk

## **Background**

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
  - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
  - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## **Discussion**

Simbert, LLC dba Peacock Lounge, 2430 N. Broadwell Avenue has submitted an application for a Class “C” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments. See attached Police Department report.

Also submitted with the application was a request from Guadalupe Valderaz, 240 North Waldo Avenue for a Liquor Manager Designation.

Staff recommends approval of the application contingent upon final inspections and Liquor Manager Designation for Guadalupe Valderaz contingent upon completing a state approved alcohol server/seller training program.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve this application.

### **Sample Motion**

Move to approve the application for Simbert, LLC dba Peacock Lounge, 2430 N. Broadwell Avenue for a Class "C" Liquor License contingent upon final inspections and Liquor Manager Designation for Guadalupe Valderaz, 240 North Waldo Avenue contingent upon completion of a state approved alcohol server/seller training program.

09/19/16  
10:08

Grand Island Police Department  
LAW INCIDENT TABLE

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City : Grand Island  
Occurred after : \*\*:\*\*:\*\* \*\*/\*\*/\*\*\*\*  
Occurred before : \*\*:\*\*:\*\* \*\*/\*\*/\*\*\*\*  
When reported : 08:00:00 07/19/2016  
Date disposition declared : 07/28/2016  
Incident number : L16072369  
Primary incident number :  
Incident nature : Liquor Lic Inv Liquor Lic Inv  
Incident address : 2430 Broadwell Ave N  
State abbreviation : NE  
ZIP Code : 68803  
Contact or caller :  
Complainant name number :  
Area location code : PCID Police - CID  
Received by : Vitera D  
How received :  
Agency code : GIPD GIPD Grand Island Police Dept  
Responsible officer : Vitera D  
Offense as Taken :  
Offense as Observed :  
Disposition : ACT Active  
Misc. number :  
Geobase address ID : 1323  
Long-term call ID :  
Clearance Code : CL CL Case Closed  
Judicial Status :  
=====

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	100641	08/04/16	Jamson, Paul	Building Owner
NM	30293	07/26/16	Ackerman, Kristen M	Owner/Manager
NM	103667	07/26/16	Valderaz, Guadalupe P	Owner
NM	179536	07/26/16	Peacock Lounge,	Business Involved

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	LT03 Bar/Night Club	

LAW INCIDENT NARRATIVE:

11:09:17 07/26/2016 - Vitera D  
The Peacock Lounge is applying for a new liquor license, and Kristen Ackerman is applying to be the liquor manager.

LAW INCIDENT RESPONDERS DETAIL:

Se	Responding offi	Unit n	Unit number
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1 Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	12:37:57 07/26/2016



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Grand Island Police Department  
Supplemental Report

Date, Time: Tue Jul 26 12:38:10 CDT 2016  
Reporting Officer: Vitera  
Unit- CID

A company called "SimBert," which is owned by Guadalupe Valderaz and Kristen Ackerman, is applying for a Class C (beer, wine, distilled spirits on & off sale) LLC Retail Liquor license for the Peacock Lounge. They are leasing the building from Paul Jamson. Paul advised that he is maintaining the rights to the name "Peacock Lounge."

Neither Guadalupe nor Kristen listed a spouse on the application. Guadalupe has lived in Grand Island since at least 1976 while Kristen has lived in Grand Island at different times for more than 20 years. Guadalupe didn't list any criminal convictions while Kristen listed: No Proof of Insurance in 1999, Driving Under Suspension in 2000, Driving During Suspension in 2002, No Pet Registration and Vaccination in 2005, Disturbing the Peace in 2009, Procure/Sell to a Minor in 2012, and Theft in May of 2016. Kristen is also applying to be the liquor manager.

I checked each applicant through Spillman and NCJIS. Guadalupe didn't have any potential violations listed in Spillman. I didn't find any indication of undisclosed convictions for Kristen in Spillman, however, I did find several code compliance complaints.

In July of 2014, someone complained about Kristen's property having trash and tall weeds coupled with motor oil being drained onto the sidewalk. A GIPD Community Service Officer (CSO) responded to the complaint, verified and addressed the complaint which was taken care of in the allotted timeframe. In December of 2014, a CSO responded to a similar complaint at Kristen's property. This time, it took about four months to gain compliance. During that time, new violations popped up. The last entry on the complaint is in August of 2015 where the CSO said that a reporting error caused the information to not reach the city attorney's office, but the violations were taken care of by the recheck in August. Another code violation complaint was investigated in April of this year alleging that there was trash, junk, and furniture scattered around on the property. The complaint was resolved in the allotted time.

Guadalupe does not have any convictions listed in NCJIS, and Kristen doesn't have any undisclosed convictions in NCJIS. Guadalupe and Kristen each have a valid Nebraska driver's license, and neither one of them have any outstanding warrants for their arrest.

I did a general Internet search on Guadalupe and Kristen but didn't find anything of interest. I also checked a paid law enforcement-only database which tends to provide mostly personal identifying information and information about civil issues. I found that Guadalupe had three civil judgments against her that all went to collections. One for \$713 which she was released from in 1996. One for \$2,245 which she was released from in 2008, and one for \$122 which she was released from in 2008.

Kristen had seven civil judgments listed. Five of them were from Hall County



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and were all turned over to collections. The other two were in Los Angeles County. I found information online about the Los Angeles County cases. In one case, the notes say, "Judgment entered as a final disposition on 5/4/92 for (Musgrove, Daniel Bragg) against (Ackerman, Russ), (Ackerman, Kristen). Total \$250." The case status shows "Disposed by judgment" and the case file was destroyed in 2006. The other case shows that a judgment was entered as a final disposition on 12/30/96 against Kristen Marie Ackerman for a total of \$1641.50. The disposition is unknown, and the case file was ordered destroyed in 2007.

I called General Collection about some of the Hall County judgments. I was told they used to have five judgments against Kristen and six "open accounts." The open accounts terminology means that the cases never went to court, a lawsuit was never filed, and the judgments were paid voluntarily. The total between the open accounts and the judgments was \$4575.98. The entire balance has been paid with the last payment being in March of this year. Although some of the payments were made voluntarily, the last of the money was paid through a garnishment of wages.

Besides the judgments listed in the paid online law enforcement-only database, I found two more civil judgments in Hall County by looking in NCJIS. These two judgments have been satisfied. While Kristen has had a lot of judgments against her with most of them going to collections, it appears that they have all been satisfied.

I called Guadalupe on 7/29/16 and set up a meeting with her and Kristen on 8/3/16 at 0900. Nebraska State Patrol Investigator Joe Hansen and I met with Kristen and Guadalupe at the Peacock as scheduled. Paul Jamson was also there. He owns the building and advised that his grandfather started the Peacock back in the 1950's. Paul said even though Kristen and Guadalupe formed a company called "SimBert," they are just using the name of the Peacock and leasing the building from him. Guadalupe had told me on the phone when we set up the meeting that she works full time at the college. When we met, she said she has worked for Central Community College for forty-two years. Guadalupe said her main role for SimBert is to be the bookkeeper.

Investigator Hansen went through a checklist of questions with the applicants. When he was done, I went through the application with Kristen and Guadalupe. I'm going to summarize the rest of the interview due to receiving a call from RaNae Edwards and Kristen Ackerman on 8/4/16 saying that the application has been pulled.

In summary, the issues with this application are that Kristin has been convicted of selling alcohol to a minor which I believe violates Nebraska State Statute 53-131.01 dealing with new licenses. Kristen has a recent theft conviction from May of this year, Kristen has had numerous civil judgments rendered against her over the past twenty years (which have all eventually been satisfied), and Kristen had several code enforcement issues which were also all eventually rectified. The theft conviction, civil judgments, and code compliance problems could fall under Nebraska State Statute 53-125 (2). One final issue is that Kristen and Guadalupe stated on the application that they weren't borrowing any money from anyone to establish and/or operate the business. While interviewing them, they said they will borrow \$15,000 to \$20,000 from Paul Jamson if they get a liquor license. The failure to disclose that information on the application could fall under the Rules and Regulations of the Nebraska Liquor Control Act 010.01.

All in all, the GIPD would not recommend that the Council give local approval to



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this application the way it stands now. It will be revisited when a new application is submitted.

On 8/15/16, I received an email from RaNae Edwards stating the Peacock is now going back to Council on 8/23/16. RaNae said that she has not received an amended application. If that's the case, the GIPD still recommends that the Council not give local approval to this application for the reasons stated above. The statutes are attached.

On 9/1/16, I received a new liquor license application for the Peacock Lounge. I have reviewed this new application. Since Kristen Ackerman is no longer on the application as an owner or manager, the GIPD has no objection to Guadalupe Valderaz receiving a liquor license for the Peacock Lounge.



